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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Draft resolution proposed by the Chairman

Situation of human rights in Afghanistan

The Commission on Human Rights,

Guided by the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and accepted humanitarian rules, as set out in the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 1977,

Aware of its responsibility to promote and encourage respect for human rights and fundamental freedoms for all and resolved to remain vigilant with regard to violations of human rights wherever they occur,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil the obligations they have freely undertaken under the various international instruments,

Recalling Economic and Social Council resolution 1984/37 of 24 May 1984, in which the Council requested the Chairman of the Commission on Human Rights to appoint a special rapporteur to examine the situation of human rights in Afghanistan, with a view to formulating proposals that could contribute to

ensuring full protection of the human rights of the inhabitants of the country before, during and after the withdrawal of all foreign forces,

Recalling also its relevant resolutions, as well as the resolutions of the General Assembly and the decisions of the Economic and Social Council,

Taking note, in particular, of its resolution 1993/66 of 10 March 1993, in which it was decided to extend the mandate of the Special Rapporteur on the situation of human rights in Afghanistan for one year and to request him to report to the General Assembly at its forty-eighth session, and of Economic and Social Council decision 1993/275 of 28 July 1993, in which the Council approved the Commission's decision,

Recalling General Assembly resolution 48/152 of 20 December 1993 and noting with concern that since its adoption the situation of human rights in Afghanistan has further deteriorated owing to the recent outbreak of large-scale fighting,

Noting that, following the demise of the former Afghan Government, a transitional Islamic State of Afghanistan was established,

Noting with deep concern that in spite of the efforts and initiatives taken by the Government of Afghanistan towards ensuring complete peace and stability, a situation of armed confrontation, affecting mainly the civilian population, which is still the target of indiscriminate military attacks by rival groups, continues to exist in parts of the territory of Afghanistan, and in particular in Kabul, and has also caused a dramatic rise in the number of persons displaced inside the country,

Concerned that the prevailing situation in the country as regards the political and legal order is affecting the security of members of all ethnic and religious groups, including minorities,

Noting with concern reports of violations of rights enshrined in the International Covenant on Civil and Political Rights, such as the right to life, to liberty and security of person and to freedom of opinion, expression and association,

Deeply concerned about the recurring violations of human rights specific to or primarily directed against women by warring factions in Afghanistan and about the lack of respect towards them and their physical integrity and dignity, as reported by the Special Rapporteur,

Concerned also at reports of detainees who are being held for political reasons by rival groups, in particular in prisons run by political parties, among whom are several members of the former Government,

Noting that much remains to be done for the treatment of prisoners to be in conformity with the provisions of the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 1977,

Deeply concerned at the decline in the repatriation of Afghan refugees in 1993 and at reports of new waves of refugees in the first months of 1994, owing to the prevailing situation in Afghanistan, and expressing the hope that conditions in the country will allow those still in exile to return as soon as possible,

Noting with appreciation the efforts undertaken by some neighbouring countries to provide assistance to growing flows of refugees pending their repatriation, despite diminishing financial and other resources,

Aware that peace and security in Afghanistan are prerequisites for the successful repatriation of about four million refugees, in particular the achievement of a comprehensive political solution and the establishment of a freely and democratically elected government, the end of armed confrontation in Kabul and in some provinces, the clearance of minefields that have been laid in many parts of the country, the restoration of an effective authority in the whole country and the reconstruction of the economy,

Affirming that the declaration of amnesty issued on 28 April 1992 by the Islamic State of Afghanistan should be applied in a strictly non-discriminatory manner and that prisoners detained by rival groups without trial on Afghan territory should be released unconditionally,

Commending the activity carried out by the Office of the United Nations High Commissioner for Refugees and the International Committee of the Red Cross in cooperation with the Afghan authorities, as well as non-governmental organizations, in favour of the people of Afghanistan,

Taking note with appreciation of the report of the Special Rapporteur on the situation of human rights in Afghanistan and of the conclusions and recommendations contained therein (E/CN.4/1994/52),

Commending the efforts by the Special Rapporteur to implement its resolution 1993/46 of 8 March 1993 and the Vienna Declaration and Programme of Action by including in his report information on human rights violations affecting women,

Noting that owing to security considerations the Special Rapporteur has been unable to visit Kabul recently,

1. Welcomes the cooperation that authorities in Afghanistan have extended to the Special Rapporteur on the situation of human rights in Afghanistan in view of the circumstances prevailing in the country;

2. Also welcomes the cooperation that the authorities in Afghanistan have extended, in particular to the Coordinator for Humanitarian and Economic Assistance Programmes Relating to Afghanistan and to international organizations, such as the specialized agencies, the Office of the United Nations High Commissioner for Refugees and the International Committee of the Red Cross;

3. Urges all the Afghan parties to undertake, where appropriate under the auspices of the United Nations, all possible efforts in order to achieve a comprehensive political solution, which is the only way to bring about peace and the full restoration of human rights in Afghanistan, based on the free exercise of the right to self-determination by the people, including free and genuine elections, the cessation of armed confrontation and the creation of conditions that will permit the free return, as soon as possible, of about four million refugees to their homeland in safety and dignity, whenever they wish, and the full enjoyment of human rights and fundamental freedoms by all Afghans;

4. Welcomes all the efforts towards reaching a comprehensive, peaceful political solution to the conflict in Afghanistan, and in particular General Assembly resolution 48/208 of 21 December 1993, by which the General Assembly requested the Secretary-General to dispatch as soon as possible a United Nations special mission to Afghanistan to canvass a broad spectrum of Afghanistan's leaders to solicit their views on how the United Nations can best facilitate national rapprochement and reconstruction, and report to the Secretary-General their findings, conclusions and recommendations for appropriate action;

5. Urges all the parties to carry out, as soon as possible, a disarmament process which constitutes a prerequisite to a solution to the conflict, as decided also in the Islamabad agreement signed by the Afghan parties;

6. Invites the United Nations to offer, upon request of the Afghan Government and with due regard to the Afghan tradition, advisory services and technical assistance concerning the drafting of the Constitution, which should embody internationally accepted human rights principles, and the holding of direct elections;

7. Recognizes that the promotion and protection of human rights should be an essential element in the achievement of a comprehensive solution to the crisis in Afghanistan, and calls on all Afghan parties to respect human rights;

8. Urges all the Afghan parties to respect accepted humanitarian rules, as set out in the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 1977, to halt the use of weapons against the civilian population, to protect all civilians from acts of reprisal and violence, including ill-treatment, torture and summary executions, and to expedite the simultaneous release of prisoners wherever they may be held;

9. Appeals to all Member States to envisage all appropriate measures in order to stop supplies of weapons to the warring factions;

10. Strongly urges all Afghan parties to ensure respect for the human rights and fundamental freedoms of women, so that their honour and dignity are ensured in accordance with the provisions of international human rights instruments and humanitarian law;

11. Calls upon all States and parties concerned to make all efforts for the realization of General Assembly decision 47/428 of 16 December 1992, entitled "Prisoners of war and persons missing as a result of war in Afghanistan", and calls upon them to make all efforts for the immediate release of all prisoners of war, and in particular of former Soviet prisoners of war, as provided for under article 118 of the Geneva Convention relative to the Treatment of Prisoners of War, of 12 August 1949, considering that the hostilities in which the former Soviet Union was involved have legally and effectively ended, as well as for the tracing of the many Afghans still missing as the result of the war;

12. Urges the unconditional release of all prisoners detained without trial on the Afghan territory by rival groups, and calls for the abolition of prisons run by political parties;

13. Calls upon the authorities in Afghanistan to investigate thoroughly the fate of those persons who have disappeared during the conflict, to apply amnesty decrees equally to all detainees, to reduce the period during which prisoners await trial, to treat all prisoners, especially those awaiting trial or those in custody in juvenile rehabilitation centres, in accordance with the Standard Minimum Rules for the Treatment of Prisoners, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and to apply to all suspected or convicted persons article 14, paragraphs 3 (d), 5, 6 and 7, of the International Covenant on Civil and Political Rights;

14. Takes note of the recommendation of the Special Rapporteur concerning measures to facilitate the passage of humanitarian convoys along the highway between Jalalabad and Kabul;

15. Appeals to all Member States to provide adequate humanitarian assistance to Afghanistan to contribute to alleviating the suffering of refugees, especially the living conditions of women and children;

16. Urges the international community to sustain the increasing financial efforts undertaken by humanitarian agencies, such as the Office of the United Nations High Commissioner for Refugees and other United Nations agencies or non-governmental organizations, to assist the Afghan refugees;

17. Urgently appeals to all Member States and humanitarian organizations to continue to promote the implementation of the projects envisaged by the Coordinator for Humanitarian and Economic Assistance Programmes Relating to Afghanistan and the programmes of the United Nations High Commissioner for Refugees, especially the pilot projects for the repatriation of refugees;

18. Reiterates its appeals to all Member States, humanitarian organizations and all parties concerned to cooperate fully on the subject of mine detection and clearance, in order to facilitate the return of refugees and displaced persons to their homes in safety and dignity;

19. Strongly urges all the parties to the conflict to undertake all necessary measures to ensure the safety of the personnel of humanitarian organizations involved in the implementation of the United Nations humanitarian and economic assistance programmes relating to Afghanistan and the programmes of the United Nations High Commissioner for Refugees, in order to avoid further deplorable incidents such as those which have caused loss of life among that personnel;

20. Invites the United Nations Educational, Scientific and Cultural Organization, once the situation is back to normal and upon invitation of the Afghan Government, to study the situation of the Kabul Museum and of the national archives and to take proper action to preserve the Afghan cultural heritage;

21. Recommends the translation into the Dari and Pashtu languages of the report of the Special Rapporteur;

22. Urges the authorities in Afghanistan to continue to extend their full cooperation to the Commission on Human Rights and its Special Rapporteur, and requests the Special Rapporteur to make use of all appropriate means to gather information about specific instances of grave violations of human rights;

23. Decides to extend the mandate of the Special Rapporteur for one year and to request him to report on the situation of human rights in Afghanistan to the General Assembly at its forty-ninth session and to the Commission at its fifty-first session;

24. Calls on the Special Rapporteur to broaden and intensity efforts in addressing human rights violations that are specific to or primarily directed against women, in order to assure the effective protection of their human rights;

25. Requests the Secretary-General to give all necessary assistance to the Special Rapporteur;

26. Decides to continue its consideration of the human rights situation in Afghanistan as a matter of high priority, under the agenda item entitled "Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories".